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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,765	03/16/2004	Michael J. McMahon	71-840-1	1339

7590 05/21/2008  
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8717 Cold Spring Road  
Potomac, MD 20854

EXAMINER
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LOWE, MICHAEL S

ART UNIT	PAPER NUMBER
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3652

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05/21/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/800,765	<b>Applicant(s)</b> MCMAHON ET AL.	
	<b>Examiner</b> Michael Scott Lowe	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-23 and 27 is/are pending in the application.
- 4a) Of the above claim(s) 7,8,10,15 and 18-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-6,9,11-14,16,17 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |



***Election/Restrictions***

Applicant's election without traverse of species A & D in the reply filed on 4/2/07 is acknowledged.

Applicant incorrectly listed the claims drawn to this species and claims 7,8,10,15 and 18-23 were withdrawn as they were of non-elected species.

Applicant did not argue the non-elected claims 7,8,10,15 and 18-23 being withdrawn in the subsequent reply filed 1/9/08, therefore it is understood that the applicant and examiner are in agreement regarding these claims being non-elected and withdrawn.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-6,9,11-14,16,17 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 27, it unclear what is meant by "longitudinally rearwardly" as "longitudinal" is not defined in relation to tube member and its surroundings. While it is understood that the tube member may have a longitudinal direction, it is not clear if this is the same axis or direction as the "longitudinal axial extent" discussed in relation to the liner.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-6,9,14,16,17,27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Podd (US 5,685,688) in view of Mundinger (US 3,675,975).

Re claim 27, Podd teaches a bulk material cargo container liner system for disposition within a bulk material cargo container, comprising:

a bulk material cargo container liner (generally 402), for disposition within a bulk material cargo container (generally 206), for containing bulk cargo material (generally 304), and having a substantially rectangular parallelepiped structure when erected whereby said bulk material cargo container liner comprises a front wall surface portion, a pair of side wall surface portions, a top wall surface portion, a bottom wall surface portion, a rear wall surface portion, and a longitudinal axial extent defined between said rear wall surface portion and said front wall surface portion;

at least one vacuum discharge tube member (generally 104), for discharging the bulk cargo material, which is disposed within said bulk material cargo container liner, toward a bulk material discharge port (generally 104,204) defined within said rear wall surface portion of said bulk material cargo container liner;

and at least one inflatable air bag component (generally 516), operatively associated with said bulk material cargo container liner for causing the bulk cargo

material, disposed within said bulk material cargo container liner, to undergo fluid flow toward said at least one vacuum discharge tube member (generally 104) disposed within said bulk material cargo container liner when said at least one inflatable air bag component is inflated from a relatively deflated state to a relatively inflated state so as to facilitate the evacuation of the bulk cargo material from the interior of said bulk material cargo container liner without requiring the tilting of said bulk material cargo container liner.

Podd is silent on the details of the vacuum discharge tube member but states that the shape of the air bag may be changed as desired and inherently must be in the liner in order to function to discharge material. Munding teaches a vacuum discharge tube member (generally 18,27) as claimed extending longitudinally forwardly from said rear wall surface portion in order to regulate the material discharge. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Podd by the general teaching of Munding to have a vacuum discharge tube to extend forwardly internal of the liner in order to regulate the material discharge.

Re claims 2,3, Podd teaches said at least one inflatable air bag component is disposed internally or externally within said bulk material cargo container liner (column 2, summary of the invention).

Re claim 4, Podd teaches said at least one inflatable air bag component has a substantially right-triangular cross-sectional configuration with the hypotenuse portion thereof disposed toward said at least one vacuum discharge tube member (figure 12).

Re claim 5, Podd teaches said at least one inflatable air bag component comprises a plurality of axially separated compartments and that the compartments may be any shape (column 6, line 28) and also that the compartments are triangular but is silent whether they are right-triangles. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Podd by his own teaching to have each compartment have substantially right-triangular cross-sectional configuration in order to have uniformity and a well known shape.

Re claim 6, Podd teaches said at least one inflatable air bag component comprises a plurality of axially separated compartments and that the compartments may be any shape (column 6, line 28) and also that the compartments are triangular but is silent whether they are right-triangles. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Podd by his own teaching to have each compartment have substantially right-triangular cross-sectional configuration in order to have uniformity and a well known shape. Podd teaches (figure 12), and as already modified, the hypotenuse portion faces said at least one vacuum discharge tube member.

Re claim 9, Podd teaches said at least one vacuum discharge tube member has a cross-sectional configuration, which is selected from the group comprising semi-circular and circular.

Re claim 14, Podd as already modified by Munding teaches said at least one vacuum discharge tube member comprises a vacuum discharge tube assembly comprises a plurality of vacuum discharge tube sections fixedly but separably

connected together so as to extend throughout said longitudinal axial extent of said bulk material cargo container liner.

Re claim 16, Podd as already modified by Munding teaches means (openings) operatively connected to said plurality of vacuum discharge tube sections for adjusting the amount of vacuum suction force which can effectively be impressed upon each one of said vacuum discharge tube sections.

Re claim 17, Podd as already modified by Munding teaches each one of said vacuum discharge tube sections has a first set of apertures (various, 30,31,32,etc., see figures, some not numbered) defined within side wall portions thereof so as to fluidically connect the interior portion of said bulk material cargo container liner to the interior portions of said vacuum discharge tube sections said means operatively connected to said plurality of vacuum discharge tube sections for adjusting the amount of vacuum suction force which can effectively be impressed upon each one of said vacuum discharge tube sections comprises a strip movably mounted within each one of said vacuum discharge tube sections and comprising a second set of apertures which are to be aligned and misaligned with respect to said first set of apertures defined within said side wall portions of said vacuum discharge tube sections when said strips are moved within each one of said vacuum discharge tube sections between EXTENDED and RETRACTED positions in order to regulate material discharge.

Claims 2-6,9,14,16,17,27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Podd (US 5,685,688) in view of Munding (US 3,527,503).



Re claim 27, Podd teaches a bulk material cargo container liner system for disposition within a bulk material cargo container, comprising:

a bulk material cargo container liner (generally 402), for disposition within a bulk material cargo container (generally 206), for containing bulk cargo material (generally 304), and having a substantially rectangular parallelepiped structure when erected whereby said bulk material cargo container liner comprises a front wall surface portion, a pair of side wall surface portions, a top wall surface portion, a bottom wall surface portion, a rear wall surface portion, and a longitudinal axial extent defined between said rear wall surface portion and said front wall surface portion;

at least one vacuum discharge tube member (generally 104), for discharging the bulk cargo material, which is disposed within said bulk material cargo container liner, toward a bulk material discharge port (generally 104,204) defined within said rear wall surface portion of said bulk material cargo container liner;

and at least one inflatable air bag component (generally 516), operatively associated with said bulk material cargo container liner for causing the bulk cargo material, disposed within said bulk material cargo container liner, to undergo fluid flow toward said at least one vacuum discharge tube member (generally 104) disposed within said bulk material cargo container liner when said at least one inflatable air bag component is inflated from a relatively deflated state to a relatively inflated state so as to facilitate the evacuation of the bulk cargo material from the interior of said bulk material cargo container liner without requiring the tilting of said bulk material cargo container liner.

Podd is silent on the details of the vacuum discharge tube member but states that the shape of the air bag may be changed as desired and inherently must be in the liner in order to function to discharge material. Munding teaches a vacuum discharge tube member (generally 49,50) as claimed extending longitudinally forwardly from said rear wall surface portion in order to regulate the material discharge. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Podd by the general teaching of Munding to have a vacuum discharge tube to extend forwardly internal of the liner in order to regulate the material discharge.

Re claims 2,3, Podd teaches said at least one inflatable air bag component is disposed internally or externally within said bulk material cargo container liner (column 2, summary of the invention).

Re claim 4, Podd teaches said at least one inflatable air bag component has a substantially right-triangular cross-sectional configuration with the hypotenuse portion thereof disposed toward said at least one vacuum discharge tube member (figure 12).

Re claim 5, Podd teaches said at least one inflatable air bag component comprises a plurality of axially separated compartments and that the compartments may be any shape (column 6, line 28) and also that the compartments are triangular but is silent whether they are right-triangles. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Podd by his own teaching to have each compartment have substantially right-triangular cross-sectional configuration in order to have uniformity and a well known shape.

Re claim 6, Podd teaches said at least one inflatable air bag component comprises a plurality of axially separated compartments and that the compartments may be any shape (column 6, line 28) and also that the compartments are triangular but is silent whether they are right-triangles. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Podd by his own teaching to have each compartment have substantially right-triangular cross-sectional configuration in order to have uniformity and a well known shape. Podd teaches (figure 12), and as already modified, the hypotenuse portion faces said at least one vacuum discharge tube member.

Re claim 9, Podd teaches said at least one vacuum discharge tube member has a cross-sectional configuration, which is selected from the group comprising semi-circular and circular.

Re claim 14, Podd as already modified by Mundinger teaches said at least one vacuum discharge tube member comprises a vacuum discharge tube assembly comprises a plurality of vacuum discharge tube sections fixedly but separably connected together so as to extend throughout said longitudinal axial extent of said bulk material cargo container liner.

Re claim 16, Podd as already modified by Mundinger teaches means (openings) operatively connected to said plurality of vacuum discharge tube sections for adjusting the amount of vacuum suction force which can effectively be impressed upon each one of said vacuum discharge tube sections.

Re claim 17, Podd as already modified by Mundinger teaches each one of said vacuum discharge tube sections has a first set of apertures (various, 25', 26, 27, etc., see figures, some not numbered) defined within side wall portions thereof so as to fluidically connect the interior portion of said bulk material cargo container liner to the interior portions of said vacuum discharge tube sections said means operatively connected to said plurality of vacuum discharge tube sections for adjusting the amount of vacuum suction force which can effectively be impressed upon each one of said vacuum discharge tube sections comprises a strip movably mounted within each one of said vacuum discharge tube sections and comprising a second set of apertures which are to be aligned and misaligned with respect to said first set of apertures defined within said side wall portions of said vacuum discharge tube sections when said strips are moved within each one of said vacuum discharge tube sections between EXTENDED and RETRACTED positions in order to regulate material discharge.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Podd (US 5,685,688) in view of Mundinger (US 3,675,975), and further in view of Seaman (US 3,139,998).

Re claim 11, as noted before Podd teaches that the shape of the air bag may be changed. Seaman teaches (figures 1, 2) comprises a single vacuum discharge tube assembly (generally 21) disposed along the axial centerline of said bulk material cargo container liner and a pair of inflatable air bag components disposed within the oppositely disposed side corner regions of said bulk material cargo container liner so as

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to cause bulk cargo material to flow from said oppositely disposed side corner regions of said bulk material cargo container liner toward said single vacuum discharge tube assembly disposed along said axial centerline of said bulk material cargo container liner when said pair of inflatable air bag components are inflated in order to unload heavy material (column 1, line 65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Podd by the general teaching of Seaman to have a single vacuum discharge tube assembly disposed along the axial centerline of said bulk material cargo container liner and a pair of inflatable air bag components disposed within the oppositely disposed side corner regions of said bulk material cargo container liner so as to cause bulk cargo material to flow from said oppositely disposed side corner regions of said bulk material cargo container liner toward said single vacuum discharge tube assembly disposed along said axial centerline of said bulk material cargo container liner when said pair of inflatable air bag components are inflated in order to unload heavy material.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Podd (US 5,685,688) in view of Munding (US 3,527,503), and further in view of Seaman (US 3,139,998).

Re claim 11, as noted before Podd teaches that the shaped of the air bag may be changed. Seaman teaches (figures 1,2) comprises a single vacuum discharge tube assembly (generally 21) disposed along the axial centerline of said bulk material cargo container liner and a pair of inflatable air bag components disposed within the

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oppositely disposed side corner regions of said bulk material cargo container liner so as to cause bulk cargo material to flow from said oppositely disposed side corner regions of said bulk material cargo container liner toward said single vacuum discharge tube assembly disposed along said axial centerline of said bulk material cargo container liner when said pair of inflatable air bag components are inflated in order to unload heavy material (column 1, line 65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Podd by the general teaching of Seaman to have a single vacuum discharge tube assembly disposed along the axial centerline of said bulk material cargo container liner and a pair of inflatable air bag components disposed within the oppositely disposed side corner regions of said bulk material cargo container liner so as to cause bulk cargo material to flow from said oppositely disposed side corner regions of said bulk material cargo container liner toward said single vacuum discharge tube assembly disposed along said axial centerline of said bulk material cargo container liner when said pair of inflatable air bag components are inflated in order to unload heavy material.

Claim 12, 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Podd (US 5,685,688) in view of Mundinger (US 3,675,975), and further in view of Nelligan (US 2,931,523).

Re claim 12, as noted before Podd teaches that the shaped of the air bag may be changed. Nelligan teaches said at least one vacuum discharge tube member comprises a pair of vacuum discharge tube assemblies disposed within the oppositely

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disposed side corner regions of said bulk material cargo container liner and said at least one inflatable air bag component comprises an inflatable air bag component assembly disposed along the axial centerline of said bulk material cargo container liner so as to cause bulk cargo material to flow from axially central regions of said bulk material cargo container liner toward said pair of vacuum discharge tube assemblies disposed within said oppositely disposed side corner regions of said bulk material cargo container liner when said inflatable air bag component assembly is inflated in order to better discharge the material (column 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Podd by the general teaching of Nelligan to have said at least one vacuum discharge tube member comprises a pair of vacuum discharge tube assemblies disposed within the oppositely disposed side corner regions of said bulk material cargo container liner and said at least one inflatable air bag component comprises an inflatable air bag component assembly disposed along the axial centerline of said bulk material cargo container liner so as to cause bulk cargo material to flow from axially central regions of said bulk material cargo container liner toward said pair of vacuum discharge tube assemblies disposed within said oppositely disposed side corner regions of said bulk material cargo container liner when said inflatable air bag component assembly is inflated in order to better discharge the material.

Re claim 13, as noted before Podd teaches that the shaped of the air bag may be changed. Nelligan teaches said at least one vacuum discharge tube member comprises a pair of vacuum discharge tube assemblies disposed within laterally spaced

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central regions of said bulk material cargo container liner and said at least one inflatable air bag component comprises a plurality of inflatable air bag component assemblies disposed along the axial centerline of said bulk material cargo container liner and within the oppositely disposed side corner regions of said bulk material cargo container liner so as to cause bulk cargo material to flow from axially central regions of said bulk material cargo container liner, and from said oppositely disposed side corner regions of said bulk material cargo container liner, toward said pair of vacuum discharge tube assemblies disposed within said laterally spaced central regions of said bulk material cargo container liner when said plurality of inflatable air bag component assemblies are inflated in order to better discharge the material (column 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Podd by the general teaching of Nelligan to have said at least one vacuum discharge tube member comprises a pair of vacuum discharge tube assemblies disposed within laterally spaced central regions of said bulk material cargo container liner and said at least one inflatable air bag component comprises a plurality of inflatable air bag component assemblies disposed along the axial centerline of said bulk material cargo container liner and within the oppositely disposed side corner regions of said bulk material cargo container liner so as to cause bulk cargo material to flow from axially central regions of said bulk material cargo container liner, and from said oppositely disposed side corner regions of said bulk material cargo container liner, toward said pair of vacuum discharge tube assemblies disposed within said laterally spaced central



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regions of said bulk material cargo container liner when said plurality of inflatable air bag component assemblies are inflated in order to better discharge the material.

Claim 12, 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Podd (US 5,685,688) in view of Mundinger (US 3,527,503), and further in view of Nelligan (US 2,931,523).

Re claim 12, as noted before Podd teaches that the shaped of the air bag may be changed. Nelligan teaches said at least one vacuum discharge tube member comprises a pair of vacuum discharge tube assemblies disposed within the oppositely disposed side corner regions of said bulk material cargo container liner and said at least one inflatable air bag component comprises an inflatable air bag component assembly disposed along the axial centerline of said bulk material cargo container liner so as to cause bulk cargo material to flow from axially central regions of said bulk material cargo container liner toward said pair of vacuum discharge tube assemblies disposed within said oppositely disposed side corner regions of said bulk material cargo container liner when said inflatable air bag component assembly is inflated in order to better discharge the material (column 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Podd by the general teaching of Nelligan to have said at least one vacuum discharge tube member comprises a pair of vacuum discharge tube assemblies disposed within the oppositely disposed side corner regions of said bulk material cargo container liner and said at least one inflatable air bag component comprises an inflatable air bag

component assembly disposed along the axial centerline of said bulk material cargo container liner so as to cause bulk cargo material to flow from axially central regions of said bulk material cargo container liner toward said pair of vacuum discharge tube assemblies disposed within said oppositely disposed side corner regions of said bulk material cargo container liner when said inflatable air bag component assembly is inflated in order to better discharge the material.

Re claim 13, as noted before Podd teaches that the shaped of the air bag may be changed. Nelligan teaches said at least one vacuum discharge tube member comprises a pair of vacuum discharge tube assemblies disposed within laterally spaced central regions of said bulk material cargo container liner and said at least one inflatable air bag component comprises a plurality of inflatable air bag component assemblies disposed along the axial centerline of said bulk material cargo container liner and within the oppositely disposed side corner regions of said bulk material cargo container liner so as to cause bulk cargo material to flow from axially central regions of said bulk material cargo container liner, and from said oppositely disposed side corner regions of said bulk material cargo container liner, toward said pair of vacuum discharge tube assemblies disposed within said laterally spaced central regions of said bulk material cargo container liner when said plurality of inflatable air bag component assemblies are inflated in order to better discharge the material (column 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Podd by the general teaching of Nelligan to have said at least one vacuum discharge tube member comprises a pair of vacuum discharge tube assemblies disposed within

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laterally spaced central regions of said bulk material cargo container liner and said at least one inflatable air bag component comprises a plurality of inflatable air bag component assemblies disposed along the axial centerline of said bulk material cargo container liner and within the oppositely disposed side corner regions of said bulk material cargo container liner so as to cause bulk cargo material to flow from axially central regions of said bulk material cargo container liner, and from said oppositely disposed side corner regions of said bulk material cargo container liner, toward said pair of vacuum discharge tube assemblies disposed within said laterally spaced central regions of said bulk material cargo container liner when said plurality of inflatable air bag component assemblies are inflated in order to better discharge the material.

### ***Conclusion***

Applicant's arguments filed 1/9/08 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., bulk material moving transversely) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Although it is not expressly claimed, the combination of reference would be understood by one of ordinary skill to apply to transverse or longitudinal displacement and removal of bulk material without tilting. Podd teaches the inflating structure and that it may be of any desired shape and the Munding references provide a discharge tube that does not rely on tilting. It is noted that applicant points to figure 3 of Podd to argue that Podd requires tilting. However this is not the case, as figure 3 is labeled prior art and it is stated in Podd that his device is an improvement over the tilting prior art and his claims show that tilting is not required.

Applicant argued against the combination of references and argued the combination would destroy the Podd, Nelligan and Seaman if they were combined with the Munding references. However, Podd is the main reference all the Munding references do is provide an obvious improvement in the discharge tube. It is well within the ability of one of ordinary skill to combine the references for transverse or longitudinal unloading of the material. Seaman and Munding references would also be understood by one of ordinary skill to teach discharging transversely or longitudinally.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Scott Lowe whose telephone number is (571)272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571)272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Saúl J. Rodríguez/

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/M. S. L./  
Examiner, Art Unit 3652